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IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1956.

No. 166.

GULF, MOBILE AND OHIO RAILROAD COMPANY,
Petitioner,

vs.

PEOPLE ex rel. JAMES T. CALLAHAN, County Collector of Madison County, Illinois,
Respondent.

PETITIONER'S REPLY BRIEF.

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To Brief in Support of Objections of Respondent.

I.

1. **As to Respondent's "Analysis."**

Respondent's "analysis" of the statutory and pleading requirements for an Illinois tax objection appears meaningless unless calculated to arouse a suspicion that something undisclosed was wrong with the form, filing and statement of issues of the subject tax objections. It is obviously intended to imply that there were defects in these objections viewed as a declaration of Petitioner's defense, without squarely saying what such defects are, in

addition to the obscure and previously unheard of, and, we believe imagined, fault mentioned in the opinion of the Illinois Supreme Court in its consideration of the state defense (Petition, 10).

The pertinent provisions of the Illinois statutes and the rules applicable to this proceeding as uniformly laid down by all previous decisions construing that Act are as stated by the Petitioner (Petition, 20-23). No case cited by Respondent varies therefrom, or modifies or limits the traditional procedure and statutory standard to any degree. We assert, with confidence and categorically, *the subject tax objections were timely filed, in writing, and set forth by express allegation of both ultimate and detailed facts every triable issue of fact and law upon the federal defenses. The objections met every pleading test heretofore applied, however strict.*

The stated values relied upon were not only alleged and available for comparison, if the Court in fact wished to place and examine them side by side, but the comparison was made both in Schedule A and in the specific objections. The values were not only stated but were juxtaposed to facilitate such a comparison, and the results of such a comparison were expressly alleged for each tax (Schedule A, Abst., 8; Specific Objections, Abst., 10-21).

2. **Respondent's Untenable Assumptions.**

Respondent assumes that:

(a) **The Illinois Supreme Court considered the sufficiency of the allegations of the subject tax objections upon the federal defenses.** This is *not* the case although the effect of Illinois decision is to deny to Petitioner the opportunity of a hearing upon such defenses, and this in itself is a denial of due process, if such defenses were in fact asserted.

(b) **This Court is precluded from considering the sufficiency of the facts alleged in such tax objections upon the federal defenses, because of some local rule of practice or procedure.** In the first place, there is no rule of practice or procedure, and no statutory standard, upon which the Illinois decision can be grounded, and no cited case holds that there is such a rule or standard. The statute was complied with in every respect. The objections clearly and unequivocally declared and alleged every essential fact of the federal defenses (Petition, 7-8; Abst., 3-21, 28-40). Beyond question, the court has jurisdiction to require that these defenses be heard. The strange, obscure and unfounded criticism made by the State Supreme Court was confined to the non-federal defense of constructive fraud, and this court is in no respect limited thereby in its consideration of the record upon the federal defenses.

(c) **This court is precluded from considering the federal defenses by the arbitrary and capricious refusal of the Illinois court to consider the allegations of fact upon which the defenses of denial of equal protection and due process rest.** This assumption is insupportable. The sufficiency of allegations presenting the defenses of denial of equal protection and due process under the 14th Amendment are themselves federal questions. Even if the Illinois court had considered these defenses, which it did not, this court may and should examine the record and decide these questions in the light of federal rules and upon the basis of federal standards. It makes little difference whether the Illinois court paid no attention to the actual allegations or, having glanced, arbitrarily chose to ignore stated fact after stated fact, paragraph after paragraph, and similarly failed to give consideration to the specific objections realleging all essential facts for each tax in every taxing district, since the effect is the same in either case. The denial of an opportunity to be heard was arbitrary, and cannot be supported upon the record here presented.

3. The Fallacy of the State Court's Opinion Is Not Binding in This Court.

The opinion of the state court is fantastically unrealistic, viz., in the "absence of facts showing a basis" such a "mechanical increase" in values fixed by the authorities is a conclusion of the Objector. What *absence?* None. Every fact is alleged, specifically, definitely! No mechanical operation is relied upon, except as it could be relied upon by the taxing authorities themselves in debasing valuations to less than .60 of full, fair cash value, and then only for demonstration of the effect of the debasement otherwise specifically stated upon the tax rates levied upon Objector's property (Schedule A, Abst., 8; Specific Objections, Abst., 10-21). Here, upon the federal questions, this court may consider *what is alleged,* and clearly is not bound or circumscribed by an inaccurate depiction of the facts really presented for its consideration.

II.

The Illinois Constitution and 1939 Revenue Act require uniformity and equality in the valuation of locally assessed property and railroad property.

Respondent's Division II is an endeavor to avoid the legal effect of the asserted facts, which are implicitly admitted, by justifying the discrimination and inequality thereby established. Decisions are relied upon wherein property has been permitted to be classified for purposes of taxation and unequally taxed between classes, if equally taxed within each class.

Wherever this has been approved, it has been provided for by valid state law, and that law has been enforced without discrimination contrary to its provisions. Such a discrimination in the *ad valorem* taxation of property is

not lawful in Illinois.* Full, fair cash value is the only standard of property valuation and is uniformly applicable to both locally assessed property and railroad property. Respondent succeeded in misleading the trial court on this and other fallacious contentions presented by the motion to strike, but in the Supreme Court conceded this point. That court said:

> "the parties agree, as indeed they must, that the Revenue Act requires all valuations upon which tax rates are developed and extended to be at full, fair cash value" (Separate Appendix A, 1).

We respectfully refer to the many cases of both courts in exact parallel heretofore cited (Petition p. 17, notes 12, 12a; pp. 21-23, note 15).

IN CONCLUSION.

We respectfully pray that this court examine the record in this case, give due consideration to the extreme importance of both the principles and issues which are here presented, and allow the petition herein so that Petitioner may be heard upon its federal defenses to the excessive and discriminatory taxes here in question.

Respectfully submitted,

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* The Full Value Acts of 1945 were intended to prevent the administrative failure to obtain uniform full value assessments of railroad and all other forms of taxable property as required by law (Separate Appendix C). Sec. 88 of the 1939 Revenue Act especially provided for the taxation of railroad property exactly as "other real estate" (Separate Appendix C, 16).